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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,128	08/26/2003	Ian Jeffrey Obstfeld	7433-A-1	3192
7590	10/04/2005		EXAMINER	
Jordan M. Meschkow Meschkow & Gresham, PLC Suite 409 5727 North 7th Street Phoenix, AZ 85014			PUROL, SARAH L	
			ART UNIT	PAPER NUMBER
			3634	
DATE MAILED: 10/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/648,128	OBSTFELD ET AL.	
	<b>Examiner</b> Sarah Purol	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date: ____ .   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____ .                                   |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,5,7,8,9,10,11,12,13,15,16,17,18 are rejected under 35 U.S.C. 102(b) as being anticipated by either Taggart 6,378,707 (Fig. 1); Reynolds 2,045,614 (Fig. 1); Gibson 1,842,262 (Fig. 1); Gungst 845,972 (Fig. 1).

Claims 2,4,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibson '262 (Fig. 1), Gungst '972 (Fig. 1), Reynolds '614 (Fig. 1). Note that all of these racks are “*capable*” of supporting and displaying eyewear.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Gibson '262 (Fig. 1) or Gungst '972 (Fig. 1).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taggart, Reynolds, Gibson or Gungst (as discussed above) in view of Breining et al. 4,150,752. Taggart, Gibson and Gungst all teach the device claimed absent back wall mounting holes. Breining et al. '752 teach back wall mounting holes for the purpose of mounting an eyeglass display to a wall. To provide either Taggart, Gibson, or Gungst with back

wall mounting holes to mount the rack on a wall as taught by Breining et al. would have been obvious for one having ordinary skill in the art at the time of the invention.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taggart, Reynolds, Gibson or Gungst (as discussed above) in view of Brozak Jr. 6,443,317. Taggart, Reynolds, Gibson and Gungst teach the device claimed absent the indicia and mirror. Brozak Jr. '317 teach left and right frames onto which mirror 16 is mounted. Indicia is mountable at 10. To modify either of Taggart, Reynolds, Gibson or Gungst with indicia or mirror for the purpose of better marketing merchandise would have been obvious to one having ordinary skill in the art at the time of the invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Similar display racks are illustrated by Correll-Antoun 5,284,256; Sosso d375,002 and Wolf 6,655,056.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Purol whose telephone number is 571-272-6834. The examiner can normally be reached on Mon. Tue. Thurs. For general questions relating to this application please e-mail the examiner at Sarah.Purol@USPTO.GOV.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sarah Purol  
Primary Examiner  
AU 3634